

ESTTA Tracking number: **ESTTA775365**

Filing date: **10/07/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Christian Lopez		
Entity	Individual	Citizenship	UNITED STATES
Address	715 E. Imperial Highway Los Angeles, CA 90059 UNITED STATES		
Attorney information	Brian P. Kinder The Kinder Law Group, APC 19200 Von Karman Avenue, Fourth Floor Irvine, CA 92612 UNITED STATES bkinder@tklglaw.com Phone:(949) 216-3070		

### Applicant Information

Application No	86962898	Publication date	09/20/2016
Opposition Filing Date	10/07/2016	Opposition Period Ends	10/20/2016
Applicant	Mercado, Blanca Estella 13327 S Hoover Street Gardena, CA 90247 UNITED STATES		

### Goods/Services Affected by Opposition

Class 200. First Use: 2006/04/26 First Use In Commerce: 2006/04/26  
All goods and services in the class are opposed, namely: Indicating membership in Social club, non profit

### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
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### Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	87195627	Application Date	
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		

Goods/Services	
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Attachments	2016.10.07 - Notice of Opposition - Fearless Stunters - FINAL.pdf(66513 bytes )
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### **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/BPK/
Name	Brian P. Kinder
Date	10/07/2016

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark Application Serial No. 86/962,898  
For the Mark: FEARLESS STUNTERS EST 2006 & DESIGN  
Published In the Official Gazette of: September 20, 2016

CHRISTIAN LOPEZ, d/b/a FEARLESS  
STUNTERS,

Opposer,

v.

BLANCA ESTELLA MERCADO,

Applicant.

Opposition No. \_\_\_\_\_

**NOTICE OF OPPOSITION**

CHRISTIAN LOPEZ, d/b/a FEARLESS STUNTERS (“Opposer”) believes that he will be damaged by registration of the mark shown in Application Serial No. 86/962,898 (“Opposed Application”), and hereby opposes the same. As grounds for opposition, Opposer alleges as follows:

1. Opposer is a U.S. citizen that operates under the fictitious business name FEARLESS STUNTERS and has a mailing address at 715 E. Imperial Hwy., Los Angeles, CA 90059.

2. In 2006, Opposer founded a membership club for motorcycle enthusiasts and since that time has operated the same under and in connection with the trademark and service mark FEARLESS STUNTERS. Since 2006, Opposer has both provided services and sold products featuring the FEARLESS STUNTERS mark. Opposer provides the services and sells the products under the Fearless Stunters fictitious business name.

3. Since long prior to any actual date of first use provable by Applicant, Opposer and his affiliates, related entities and licensees have used the FEARLESS STUNTERS mark,

alone or with letter and design elements in connection with a wide range of motorcycle related goods and services, including, without limitation, clothing products, club services, organization of chapters, and various related goods and services. Opposer has used the FEARLESS STUNTERS mark in connection with the above-mentioned goods and services in interstate commerce in the United States and owns substantial common law rights in the mark.

4. Opposer is also the owner of pending U.S. Application Serial No. 87/195,627 (“The ‘627 Application”) for the FEARLESS STUNTERS mark and directed to “clothing, namely, shirts, vests, jackets and headwear” in Class 25 as well as “club services, namely, promoting the interests of a motorcycle club for motorcycle enthusiasts; Organizing chapters of a motorcycle club and promoting the interests of the members of a motorcycle club” in Class 35. Collectively, Opposer’s common law rights and Opposer’s rights in and to The ‘627 Application are referred to herein as “OPPOSER’S FEARLESS STUNTERS MARK.”

5. As a result of Opposer’s promotion and sales of goods and services under and in connection with OPPOSER’S FEARLESS STUNTERS MARK, Opposer has built up highly valuable goodwill in OPPOSER’S FEARLESS STUNTERS MARK, and said goodwill has become closely and uniquely identified and associated with Opposer.

6. On information and belief, Applicant Blanca Estella Mercado (“Applicant”) is an individual citizen of the United States with a mailing address at 13327 S. Hoover Street, Gardena, CA 90247.

7. On April 4, 2016, Applicant filed the Opposed Application, based on Section 1(a) of the United States Trademark Act (15 U.S.C. § 1051(a)), for registration of the trademark depicted below for use with “Indicating membership in Social club, non profit” in Class 200. Applicant’s Mark was published for opposition in the Trademark Official Gazette of September 20, 2016. Accordingly, this opposition is timely.



8. Applicant filed the Opposed Application in bad faith and with unclean hands. Applicant knowingly and falsely signed a declaration under oath, under penalty of perjury, stating that Applicant is the owner of the mark when Applicant is well aware that is not the case. Indeed, Applicant is a former member in the membership club services provided by Opposer under and in connection with OPPOSER'S FEARLESS STUNTERS MARK. Thus, Applicant's entire Opposed Application is based upon knowingly false statements.

9. Although Applicant knowingly and falsely states in the Opposed Application that Applicant has provided collective membership mark services under the mark since 2006, the truth is that it was not until many years after Opposer first began using OPPOSER'S FEARLESS STUNTERS MARK in connection with goods and services as set out above that Applicant became a member of Opposer's membership club for motorcycle enthusiasts.

10. Opposer did not authorize Applicant to use the mark in the Opposed Application, or any other mark comprised of, incorporating, or similar to OPPOSER'S FEARLESS STUNTERS MARK. As a result, Applicant has no rights in and to the mark in the Opposed Application. Opposer has prior and superior rights in and to OPPOSER'S FEARLESS STUNTERS MARK.

**CLAIM FOR RELIEF**  
**(Likelihood of Confusion With Previously Used Mark)**

11. Opposer repeats and realleges the allegations in preceding paragraphs 1 through 9, inclusive, as if fully set forth herein.

12. Opposer will be damaged by registration of The "FEARLESS STUNTERS EST. 2006 & DESIGN" mark shown in the Opposed Application because it is similar to and so resembles Opposer's previously used and not abandoned OPPOSER'S FEARLESS STUNTERS MARK, and the goods and services covered by the marks are related in such a way that, it is likely that a potential consumer would be confused or mistaken or deceived as to the source of the parties' respective goods and services. Accordingly, Applicant's Mark is not registrable under Section 2(d) of the United States Trademark Act, 15 U.S.C. § 1052(d).

13. Further, Opposer will be damaged by registration of the mark shown in the Opposed Application because registration will provide Applicant with prima facie evidence of ownership of, and its exclusive nationwide right to use, a mark that is confusingly similar to Opposer's previously used and not abandoned OPPOSER'S FEARLESS STUNTERS MARK.

**WHEREFORE**, Opposer prays for judgment sustaining this opposition and refusing registration to Applicant of the mark shown in the Opposed Application. Pursuant to 37 C.F.R. § 2.6(a)(17), the filing fee of \$300 was filed with the original Notice of Opposition in this matter.

Dated this 7<sup>th</sup> day of October, 2016.

Respectfully submitted,

THE KINDER LAW GROUP, APC

A handwritten signature in dark ink, appearing to read "B. Kinder", is positioned above a horizontal line.

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Attorneys for Opposer

**CERTIFICATE OF TRANSMISSION AND SERVICE**

I certify that on October 7, 2016, the foregoing NOTICE OF OPPOSITION is being electronically filed via the Trademark Trial and Appeal Board's Electronic System for Trademark Trials and Appeals ("ESTTA").

It is further certified that on October 7, 2016, the foregoing NOTICE OF OPPOSITION is being served by mailing a copy thereof by U.S. first-class mail addressed to:

1. Blanca Estella Mercado  
13327 S Hoover Street  
Gardena, CA 90247

Executed this 7<sup>th</sup> day of October, 2016, in Irvine, California.



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